

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRADLEY B. VALENTINE,

Petitioner

V.

WARDEN DANIEL KEEN,

Respondent

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CIVIL NO. 1:14-CV-0265

(Judge Rambo)

(Magistrate Judge Schwab)

MEMORANDUM

Before the court is a report filed by the magistrate judge to whom this matter was referred in which she recommends that Respondent's motion to dismiss be granted in part and denied in part. Petitioner has not filed objections to the report and recommendation, perhaps because he was released from prison on June 25, 2014. The report and recommendation of the magistrate judge was filed on September 23, 2014 (Doc. 15). Respondent filed objections and supporting brief to the report and recommendation on September 25, 2014 (Docs. 16 & 17). The copy of the report and recommendation sent to Petitioner was returned on October 3, 2014 (Doc. 18), marked "return to sender -not at this address." Investigation by the clerk of court found that Petitioner was released from prison on June 25, 2014.

The prison has not been able to provide a forwarding address for Petitioner and Petitioner has not advised the court of his change of address as is required by this court's local rules. (*See* M.D.L.R. 83.18.) This court may deem Petitioner's failure to notify the court of his change of address as an abandonment of

this law suit. Thus, procedurally, this case can be dismissed for Petitioner's abandonment of this action.

Upon review of the report and recommendation and the Respondent's objections thereto, however, this court will dismiss the action in the merits. This court agrees with Respondent that the case should be dismissed for Petitioner's failure to exhaust state law remedies. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: November 5, 2014.